

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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October 29, 2010

LEGEND

Company =

Industry =

Exchange =

Units =

StateX =

StateY =

SeriesA =

SeriesB =

SeriesC =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Date7 =

Date8 =

Date9 =

Date10 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

m =

n =

o =

p =

Dear :

This letter responds to your request dated September 20, 2010, submitted on behalf of Company, for rulings on certain federal income tax consequences of a proposed transaction. Additional information was received in letters dated October 11 and 28, 2010. The rulings contained in this letter are based upon information and representations submitted on behalf of Company and accompanied by penalties of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Company is engaged in several lines of business in Industry. Company is organized under the laws of StateX and its principal executive offices are located in StateY. Company is the common parent of a group of affiliated corporations that files a consolidated income tax return and computes their federal income tax liability using the accrual method of accounting and a taxable year ending Date1. Company's common stock is publicly traded on the Exchange (among other exchanges).

On Date2, Company issued a units (Units) in exchange for \$b. Each Unit has an initial purchase price of \$c and is traded on the Exchange. Each Unit consists of d% undivided beneficial interest in notes from SeriesA, SeriesB, and SeriesC that each have a principal amount of \$e (Note), and a contract for the purchase of Company stock (Contract). SeriesA is initially due Date3. SeriesB is initially due Date4. SeriesC is initially due Date5. The Contract of each Unit is for the purchase of a variable amount of shares of Company's common stock for \$f on three separate stock purchase dates, Date6, Date7, and Date8. Company is required to pay interest on each series of the notes at the rates of g%, h%, and i% per annum and a fee on each Contract until the separate stock purchase dates at the successive rates of j%, k%, and l% per annum. The amounts are payable on a quarterly basis.

Each series of the notes is pledged to secure a Unit holder's obligations to pay on each of the three stock purchase dates in the Contract. A Unit holder may separate its remaining pledged interests in the notes from a Unit by substituting as collateral certain Treasury securities, or by settling the Contract in cash prior to the next settlement date on Date6, Date7, or Date8.

Company is required to attempt to remarket notes from the three series to yield proceeds in an amount sufficient to satisfy the Unit holder's obligation under the Contract (plus interest accrued on each series of notes through but excluding the stock purchase date and remarketing fees) for each stock purchase date. If a remarketing is not successful for a series of the notes, Company may exercise its rights to retain (or sell) the series of the notes in full satisfaction of the Unit holders' obligation under the Contract for the stock purchase date relating to that series of the notes. The remarketing for SeriesA must begin before Date9.

Company's financial position has deteriorated significantly since Date2. Company has experienced a steep drop in its stock price and a significant downgrade in its credit ratings. Company now considers it financially beneficial to repurchase the Notes and cash settle the Contracts contained in the Units prior to its obligation under the terms of the Units to remarket SeriesA of the Notes on Date9.

Company proposes to make an exchange offer to each Unit holder prior to Date9 (Exchange Offer) under which:

- (i) Company will repurchase the Notes in exchange for m shares of Company's common stock, plus an amount of cash, which when added to the fair market value of the m shares of Company's stock on Date10 equals the adjusted issue price of the Note on Date10, plus accrued but unpaid interest.
- (ii) Each accepting Unit holder will pay \$n to Company in cash settlement of the Contract.

In connection with the proposed Exchange Offer, it has been represented that:

- (a) On Date2, the Units satisfied the requirements of Revenue Ruling 2003-97, 2003-2 C.B. 380.
- (b) SeriesA, SeriesB, and SeriesC of the Notes were issued with no more than a de minimis amount of original issue discount.
- (c) The Notes repurchased by Company will be repurchased for its adjusted issue price on Date10, plus accrued but unpaid interest.
- (d) The additional \$o paid by Company to the Unit holders for repurchasing each series of the notes will constitute accrued but unpaid interest.
- (e) The value of Company's stock has decreased by approximately p% since Date2.

- (f) Company has not treated the fee payable on each Contract as a deductible item for Federal income tax purposes on any tax return, nor does Company plan or intend to do so.
- (g) Company will not seek to deduct any capitalized issuance costs allocated to the Contracts.
- (h) As of Date2, Company did not intend to tender for the interests in the notes, or otherwise seek to repurchase the interests in the notes prior to the date which is at least two years after the respective stock purchase dates and therefore assumed that, except in the case of a failed remarketing, the interests in the notes would remain outstanding for at least two years following the respective stock purchase dates.
- (i) As of Date2, Company did not reasonably foresee that its financial position and credit rating would deteriorate after Date2 to the extent that they have deteriorated.
- (j) Company believes that a remarketing would have a negative impact on its credit rating, which could substantially jeopardize its operations.

Based solely on the information submitted and the representations set forth above, we rule as follows:

- (1) Company will be paid \$n by each accepting Unit holder in cash settlement of each Contract. This amount is gain resulting from Company's receipt of property in cash settlement of its contract to sell its stock and is therefore not recognized pursuant to section 1032(a).
- (2) Because Company will pay each accepting Unit holder an amount equal to the adjusted issue price of each series of the notes on Date10 (which payment includes m shares of Company's stock), plus \$o of accrued but unpaid interest, Company will be neither entitled to deduct interest expense (except for \$o of accrued but unpaid interest) nor recognize cancellation of indebtedness income in respect of the repurchase of any series of the notes.
- (3) No amount paid by Company pursuant to the Exchange Offer shall be deductible by Company, except for the money paid for the \$o of accrued but unpaid interest on the Notes on Date10.
- (4) The Exchange Offer will not prevent the Units from complying with the requirements of Revenue Ruling 2003-97, 2003-2 C.B. 380.

- (5) The fact that the payments owed to and by Company pursuant to the Exchange Offer will be netted shall not affect the above rulings.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of the proposed Exchange Offer or any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed as to whether the Units are treated as a Note and a Forward, each of which is a separate instrument, for Federal income tax purposes. In addition, no opinion is expressed as to whether the proposed Exchange Offer constitutes a reorganization within the meaning of section 368(a)(1).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Alfred C. Bishop, Jr.

Alfred C. Bishop, Jr.
Branch Chief, Branch 6
Office of Associate Chief Counsel
(Corporate)